

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1430 (The Minority Leader)(By Request - Administration)
Rules and Executive Nominations

Congressional Districting Plan - Sixth and Eighth Congressional Districts

This emergency Administration bill revises the boundaries of the Sixth and Eighth congressional districts for federal elections in Maryland. The Sixth Congressional District consists of Allegany, Frederick, Garrett, and Washington counties and parts of Carroll and Montgomery counties. The Eighth Congressional District consists of parts of Montgomery County.

Fiscal Summary

State Effect: The State Board of Elections can handle the bill's changes with existing resources. Revenues are not affected.

Local Effect: Expenditures increase for some local boards of elections to notify affected voters of the new congressional district boundaries, as discussed below. Revenues are not affected.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary: The bill implements the recommendations of the Emergency Commission on Sixth Congressional District Gerrymandering, which is discussed below. The boundaries proposed by the commission for the Sixth and Eighth congressional districts are shown in **Appendix 1**.

Current Law/Background:

Congressional Redistricting

Congressional redistricting is governed by the U.S. Constitution, federal statute, including the Voting Rights Act of 1965, and applicable case law. Under federal case law, congressional district boundaries must be redrawn after each decennial census to adjust for population changes, and they must be as closely equal in population as practicable (*Wesberry v. Sanders*, 376 U.S. 1 (1964)).

Following the 2010 census, the U.S. Census Bureau apportioned eight congressional seats to Maryland, each of which had to consist of 721,529 residents, according to 2010 census figures. Because the adjusted State population was not divisible by eight, one district had one fewer resident than the required number. The General Assembly adopted the current congressional districting plan under Chapter 1 of the 2011 special session. The current boundaries of the Sixth and Eighth congressional districts are shown in **Appendix 2**.

Chapters 66 and 67 of 2010 require that population counts used to create congressional districts in Maryland exclude incarcerated individuals who were not State residents prior to their incarceration in either State or federal correctional facilities that are located in the State. If incarcerated individuals were State residents prior to their incarceration, they must be counted as residents of their last known address before their incarceration in a State or federal facility.

Legal Challenges to Maryland's Sixth Congressional District

On November 7, 2018, a federal three-judge District Court found Maryland's congressional map in violation of the First Amendment to the U.S. Constitution and ordered the State to redraw the boundaries of the Sixth Congressional District in advance of the 2020 elections. The order required the State to develop and submit a revised districting plan for court approval by March 7, 2019. On November 16, 2018, the court stayed the injunction, pending appeal in the U.S. Supreme Court, until the earlier of a Supreme Court resolution or July 1, 2019. The U.S. Supreme Court heard arguments in *Lamone v. Benisek* on March 26, 2019.

The three-judge District Court order requires the State to adhere to traditional standards – including contiguity, compactness, and regard for natural and political boundaries and communities of interest – and also prohibits the State from considering citizens' party affiliation or voting history in developing the proposed districting plan. If the State fails to submit a plan by the specified deadline, or if the court rejects the State's plan, the court will establish a commission to develop and submit a plan.

Emergency Commission on Sixth Congressional District Gerrymandering

On November 26, 2018, in response to the three-judge court's ruling, the Governor issued an executive order establishing the Emergency Commission on Sixth Congressional District Gerrymandering. The executive order charged the commission with preparing a new congressional map that revises the boundaries of the Sixth Congressional District, complies with the court order, and adheres to all applicable legal requirements. The commission, which conducted workshops and public hearings in January through March 2019, approved a proposed map on March 1 and received public comments through March 26. The executive order required the commission to approve and submit to the Governor a final plan by April 2 for introduction as emergency legislation in the 2019 session of the General Assembly.

Local Expenditures: Local boards of elections for Carroll, Frederick, and Montgomery counties incur expenditures to generate and mail voter notification cards to affected voters. Frederick County, for example, advises that its expenditures increase by approximately \$40,500 in fiscal 2020 to generate and mail voter notification cards to more than 90,000 affected voters. However, these costs may be incurred in the absence of the bill, depending on the outcome of the U.S. Supreme Court's review of the District Court ruling on the State's congressional map, as discussed above. Other related activities for local boards of elections, including updating voter files and district map software, can likely be handled with existing resources.

Additional Information

Prior Introductions: None.

Cross File: SB 1050 (The Minority Leader)(By Request - Administration) - Rules.

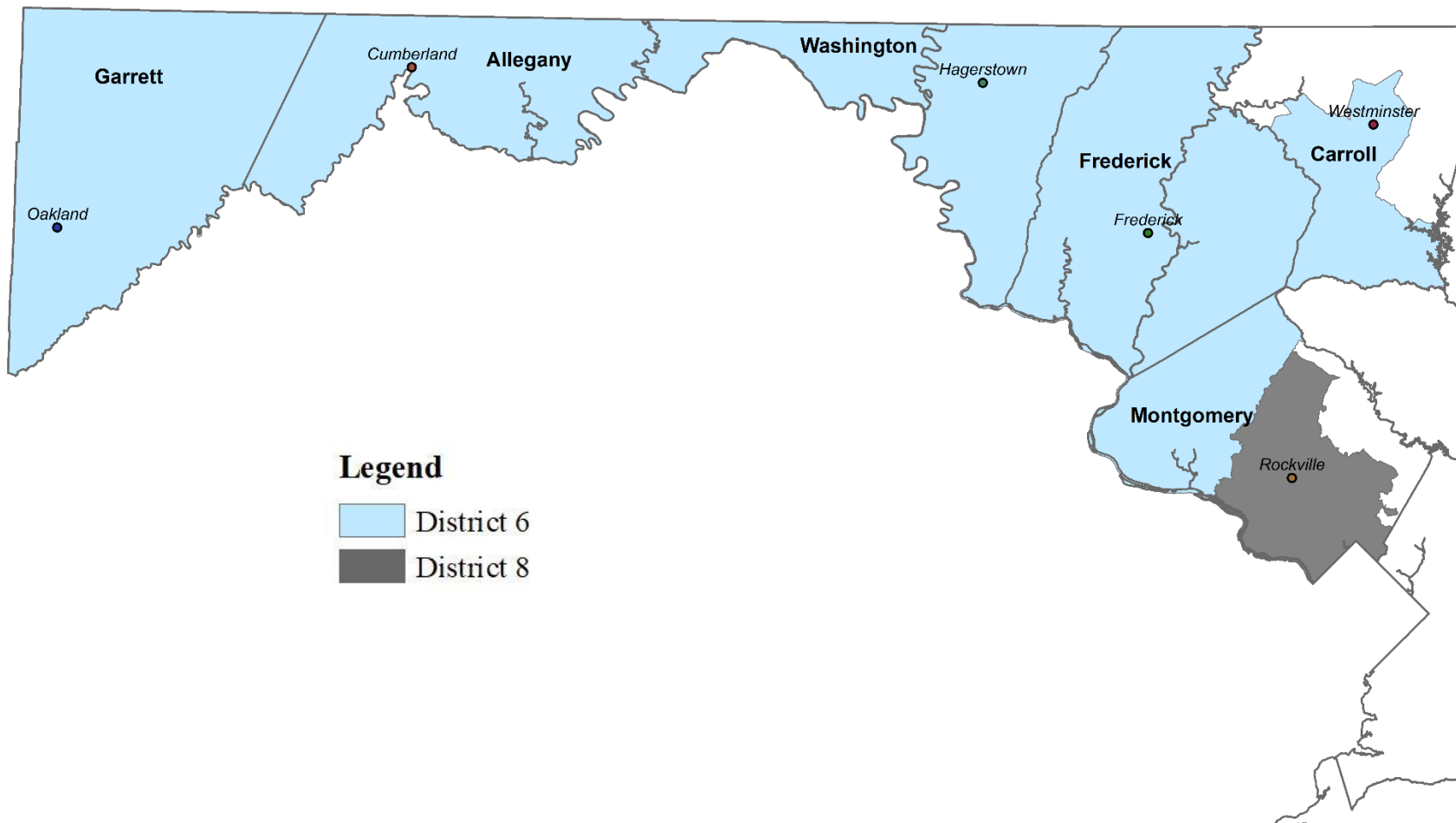
Information Source(s): Maryland Association of Counties; Governor's Office; Judiciary (Administrative Office of the Courts); Maryland Department of Planning; Maryland State Board of Elections; Carroll, Frederick, and Montgomery counties; U.S. Supreme Court; Department of Legislative Services

Fiscal Note History: First Reader - April 1, 2019
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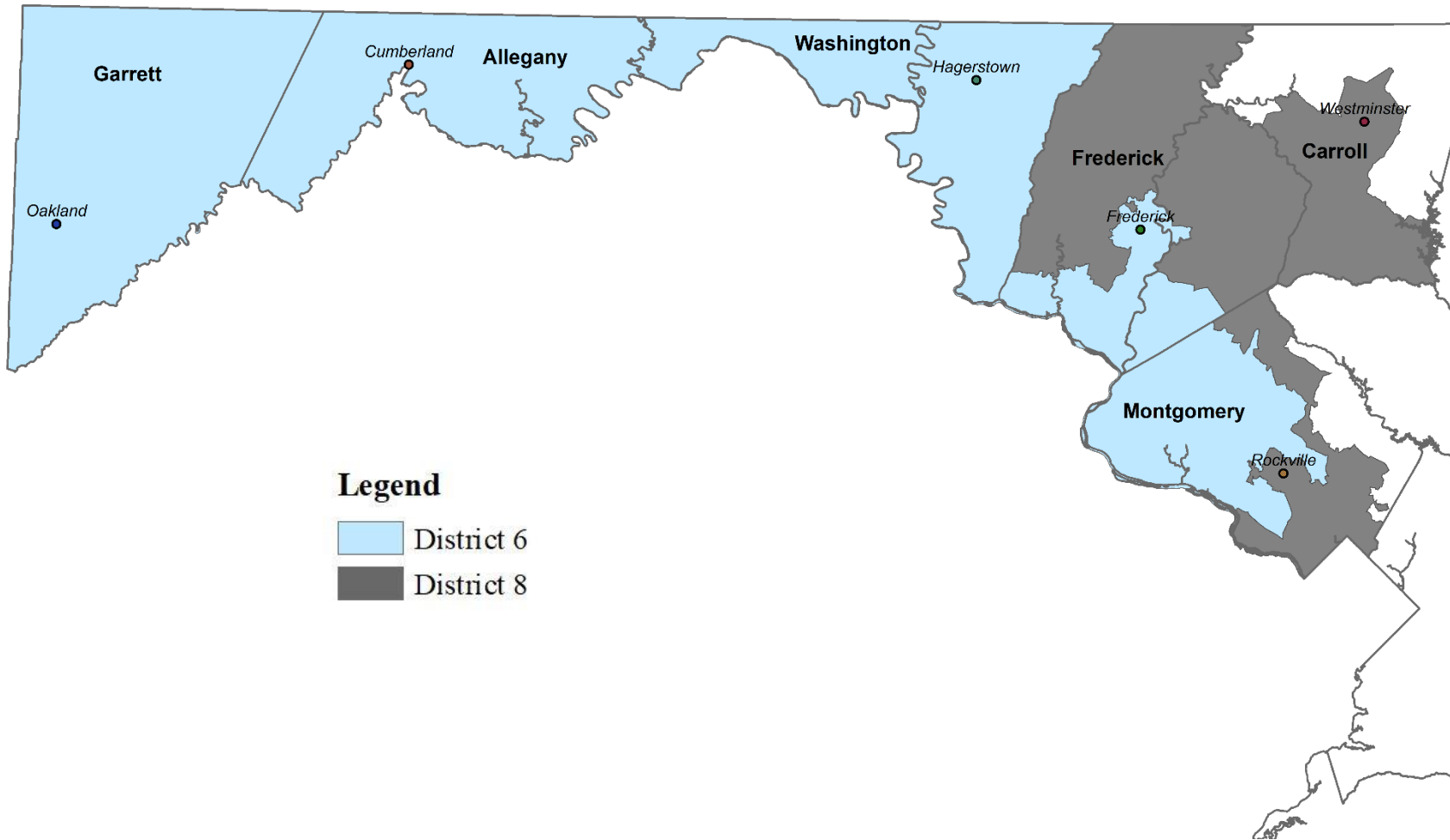
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Appendix 1 – Emergency Commission on Redistricting Proposed Plan Districts 6 and 8



Source: Maryland Department of Planning; Department of Legislative Services

Appendix 2 – Current Congressional Districts 6 and 8



Source: Department of Legislative Services

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Congressional Districting Plan - Sixth and Eighth Congressional Districts

BILL NUMBER: HB1430/SB1050

PREPARED BY: Governor's Legislative Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS